

Before the
Federal Communications Commission
Washington, D.C. 20554

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In re Applications of

ADAM D. GEARHEART

ROBERT G. PICKLESIMER

) MM Docket No. 93-96
)
) File No. BPH-920102MC
)
) File No. BPH-920109MB
)

For Construction Permit for a
New FM Station on Channel 285A
in Harold, Kentucky

TO: Honorable Joseph Stirmer
Administrative Law Judge

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

JOINT MOTION FOR APPROVAL OF AGREEMENT

Adam D. Gearheart and Robert G. Picklesimer, by their respective attorneys, hereby respectfully request the Administrative Law Judge to (a) approve the attached Agreement of Settlement; and (b) simultaneously dismiss the application of Robert G. Picklesimer and grant the application of Adam D. Gearheart for a construction permit for a new FM broadcast station at Harold, Kentucky. In support thereof, it is alleged:

1. Adam D. Gearheart ("Gearheart") and Robert G. Picklesimer ("Picklesimer") are each of them applicants for a construction permit for a new FM broadcast station to operate on Channel 285A at Harold, Kentucky. Because the simultaneous operation of more than one FM broadcast station on Channel 285A at

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Harold would create intolerable electrical interference, the applications are mutually exclusive, i.e., only one may be granted. The Commission has, therefore, ordered that hearings be held in this proceeding to determine which, if either, application should be granted

settlement agreement and that the agreement constitutes the only understanding between these two parties. Additionally, the agreement contains a declaration of Picklesimer, attesting to the actual expenses incurred in connection with the advocacy of his application.

4. Approval of this agreement will serve the public interest. It will avoid needless hearing proceedings, with their attendant expense to both the government and private parties. Furthermore, it will enable new broadcast service to be implemented to the public without further delay.

WHEREFORE, it is respectfully requested that the Administrative Law Judge (a) approve the attached Agreement of Settlement; and (b) simultaneously dismiss the application of Robert G. Picklesimer, and grant the application of Adam D. Gearheart for a construction permit for a new FM broadcast station at Harold, Kentucky.

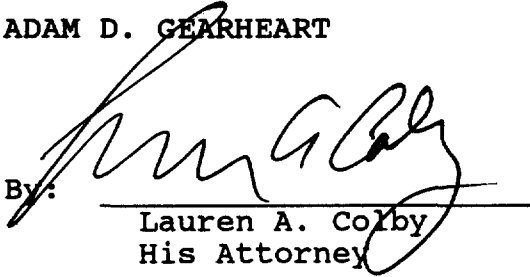
April 26, 1993

Respectfully submitted,

ADAM D. GEARHEART

Law Office of
LAUREN A. COLBY
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113

By:


Lauren A. Colby
His Attorney

ROBERT G. PICKLESIMER

Verner, Liipfert, Bernhard
McPherson and Hand, Chartered
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005-2301

By:


Michael E. Beller
His Attorney

EXHIBIT 1

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AGREEMENT OF SETTLEMENT

AGREEMENT OF SETTLEMENT, made and entered into this 26th L.A.S. day of April, 1993, by and between Adam D. Gearheart ("Gearheart"), an individual and resident of the State of Kentucky; and Robert G. Picklesimer ("Picklesimer"), also an individual and resident of the State of Kentucky.

W I T N E S S E T H :

WHEREAS, Gearheart and Picklesimer are each of them applicants to the Federal Communications Commission (hereinafter referred to as the "FCC") (File Nos. BPH-920102MC and BPH-920109MB, respectively) for a construction permit for a new FM broadcast station to operate on Channel 285A at Harold, Kentucky; and

WHEREAS, the simultaneous operation of more than one station on Channel 285A at Harold would create intolerable electrical interference and the applications are, therefore, mutually exclusive, i.e., only one may be granted; and

WHEREAS, the FCC has directed that hearings be held in MM Docket No. 93-96, to determine which of these applications should be granted; and

WHEREAS, Gearheart and Picklesimer desire to settle their differences on an amicable basis, so that the forthcoming hearings will be avoided.

1. Dismissal of the Application of Picklesimer:

2. Consideration for the Dismissal of the Application of Picklesimer:

In consideration for the dismissal of Picklesimer's application Gearheart agrees to pay Picklesimer a sum of money.

(a) On or before April 27, 1993, Gearheart will deposit with his attorney, Lauren A. Colby, 10 E. Fourth Street, Frederick, Maryland (21701), the sum of FOURTEEN THOUSAND DOLLARS (\$14,000), to be held in escrow pursuant to the terms of this Agreement. Mr.

If to Picklesimer:

c/o Michael E. Beller, Esq.
Verner, Liipfert, Bernhard, McPherson & Hand
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
Attorney for Robert G. Picklesimer

**4. Declarations Required by Section 311
of the Communications Act:**

The signatories to this Agreement each declare under penalty of the laws of perjury that the applicant represented by such signatory did not file its application for the purpose of obtaining this Agreement; that this Agreement is the sole and only Agreement between the parties hereto; and that approval of this Agreement will serve the public interest by avoiding protracted and expensive hearing proceedings and enabling new service to the public to be implemented at the earliest possible date.

5. Counterparts and Effective Date:

This Agreement may be executed in counterparts and when so executed the counterparts taken together shall constitute a complete and binding agreement, just as if the parties had signed the same instrument. If executed in counterparts, this Agreement shall become effective on the day when the last executed counterpart is received in the offices of Gearheart's attorney, Lauren A. Colby, and Mr. Colby is hereby authorized to date the Agreement accordingly. If not executed in counterpart, this Agreement shall take place on the day when the parties actually

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sign the Agreement and the parties shall date the Agreement accordingly.

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6. Kentucky Contract:

This Agreement is a Kentucky contract and shall be construed and interpreted in accordance with the laws of that state.

IN WITNESS WHEREOF, the parties to this Agreement have set their hands and seals or the hands and seals of their authorized representative on the day and year above written.

ADAM D. GEARHEART

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sign the Agreement and the parties shall date the Agreement accordingly.

6. Kentucky Contract:

This Agreement is a Kentucky contract and shall be construed and interpreted in accordance with the laws of that state.

IN WITNESS WHEREOF, the parties to this Agreement have set their hands and seals or the hands and seals of their authorized representative on the day and year above written.

ADAM D. GEARHEART

By: _____
Adam D. Gearheart
Individual Applicant

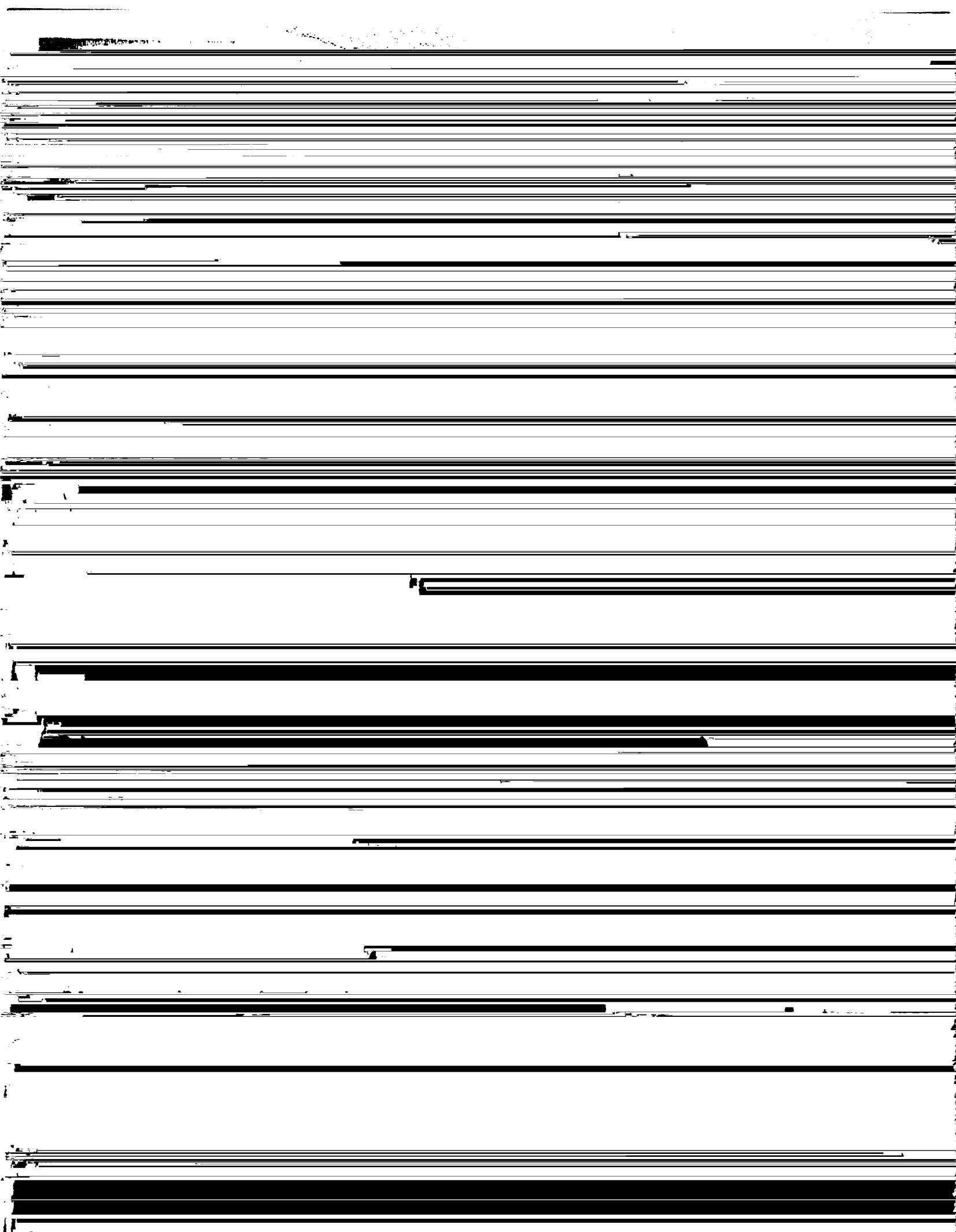
ROBERT G. PICKLESIMER

By: Robert G. Picklesimer
Robert G. Picklesimer
Individual Applicant

LAUREN A. COLBY, ESQ.

By: _____
Lauren A. Colby
Escrow Agent

EXHIBIT A



ITEMIZED ACCOUNTING OF EXPENSES

Engineering:	\$3,870
Site Inspection:	77
Legal:	9,616
Legal Notices:	300
Application Fee:	2,030
Telephone, Copying,	
Fax:	<u>400</u>
Total Expenses:	\$16,293

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CERTIFICATE OF SERVICE

I, Traci Maust, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 26th day of April 1993, to the offices of the following:

Honorable Joseph Stirmer
Administrative Law Judge
F.C.C.
2000 L Street, N.W.
Room 224
Washington, D.C. 20554

James W. Shook, Esq.
Hearing Branch
Enforcement Division
Mass Media Bureau
F.C.C.
2025 M Street, N.W.
Room 7212
Washington, D.C. 20554

Michael E. Beller, Esq.
Verner, Liipfert, Bernhard,
McPherson & Hand Chartered
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
(Counsel for Robert G. Picklesimer)


Traci Maust